

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

-----X  
NACHMAN GOLDSTEIN, on behalf of himself  
and all others similarly situated,

Plaintiff,

**CLASS ACTION** JUDGE KARAS  
**COMPLAINT**

v.

SUNRISE CREDIT SERVICES, INC

Defendant.

**11 CV 1371**

-----X  
Plaintiff, by his attorney The Law Offices of Shimshon Wexler, P.C., as and for his  
complaint against the defendants, on behalf of a class pursuant to Rule 23 alleges as follows:

**INTRODUCTION**

1. Plaintiff brings this action to secure redress from unlawful credit and  
collection practices engaged in by defendant Sunrise Credit Services, Inc. ("Sunrise"). Plaintiff  
alleges violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

2. The FDCPA broadly prohibits unfair or unconscionable collection  
methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or  
misleading statements, in connection with the collection of a debt and requires certain  
disclosures. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C.  
§1331, 28 U.S.C. §1337 and 28 U.S.C. §1367 and 28 U.S.C. §1391.

4. Venue and personal jurisdiction in this District are proper because:

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a. Defendant does business within this District and the acts giving rise to this lawsuit occurred within this district.

### **PARTIES**

5. Plaintiff, Nachman Goldstein ("Goldstein"), is an individual who resides in New York.

6. Defendant, Sunrise, is a corporation chartered under New York law with offices at 260 Airport Plaza, Farmingdale, New York 11735.

7. Upon information and belief, Sunrise is a corporation engaged in the business of collecting debts for others and is a debt collector as that term is defined by 15 U.S.C. §1692a(6).

### **FACTS**

8. On or about December 1st, 2010 plaintiff received a letter from Sunrise attempting to collect a debt. See Exhibit A.

9. In sending Exhibit A, defendants sought to collect a financial obligation incurred for personal, family or household purposes, namely fees emanating from a personal credit card.

10. Exhibit A conveys that the Cablevision account balance will be reported to one or more of the national credit bureaus on 12-06-10.

11. Upon information and belief, the Cablevision account balance was never reported to any national credit bureau as of 02-15-11.

### **CLAIMS FOR RELIEF**

#### **COUNT I**

#### **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

12. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. Exhibit A violates 15 U.S.C. §§1692 and 1692e.

14. Section 1692e entitled False or Misleading Representations provides:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:.....

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt.

15. By sending Exhibit A, Sunrise violated the above quoted provisions of the statute because, upon information and belief, it made a false statement intended to coerce the consumer into paying the debt.

16. Consumers would believe from reading the letter that their credit would be tarnished on or about 12-06-10 when this is not true.

17. Sunrise is liable to the plaintiff for statutory damages pursuant to 15 U.S.C. §1692k because of the FDCPA violation.

#### **CLASS ALLEGATIONS**

18. Plaintiff brings this action on behalf of a class, pursuant to Federal Rules of Civil Procedure Rule 23(a) and 23(b) (3).

19. The class consists of (a) all individuals (b) with a United States address (c) who have received a letter in the form of Exhibit A (d) on or after a date one year prior to the filing of this action and on or before a date 20 days after the filing of this action where (e) Sunrise did not report the account balance to a national credit bureau on a date two months after Sunrise said it would report it “on or about” a specific day.

20. The class is so numerous that joinder of all members is not practicable. On information and belief, there are at least 40 members of the class.

21. There are questions of law and fact common to the class, which common questions predominate over any questions relating to individual class members. The predominant common question is whether Exhibit A violates the FDCPA.

22. Plaintiff’s claim is typical of the claims of the class members. All are based on the same factual and legal theories.

23. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation.

24. A class action is superior for the fair and efficient adjudication of this matter, in that:

- a. Individual actions are not economically feasible;
- b. Members of the class are likely to be unaware of their rights;
- c. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

**WHEREFORE**, the Court should enter judgment in favor of plaintiff and the class and against the defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

Dated: New York, New York  
February 28, 2011

**The Law Offices of Shimshon Wexler, PC**

By: 

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**NOTICE OF ASSIGNMENT**

Please be advised that all rights relating to attorney's fees have been assigned to counsel.



Shimshon Wexler

# **EXHIBIT A**



PO Box 9100  
Farmingdale NY 11735-9100  
RETURN SERVICE REQUESTED



David P. Duryea  
Executive Vice President, Collections  
**Sunrise Credit Services, Inc.**

P.O. Box 9100  
Farmingdale, NY 11735-9100  
800-269-9488 • Fax: 631-501-8534  
Hours: Mon. - Fri. 8 AM - 11 PM EST, Sat. 8 AM - 4 PM EST



9611523-EXPC 438449489



NACHMAN GOLDSTIEN  
[REDACTED]  
[REDACTED]

November 26, 2010

**Account Information**

Client: Cablevision

Client Account #: [REDACTED]

SCS Account #: [REDACTED]

Account Balance:	\$310.46
Equipment Charges:	\$0.00
Balance Due:	\$310.46

Dear NACHMAN GOLDSTIEN:

Our client has asked us to collect this debt. We have tried repeatedly to do so but with no success. Our client has now asked us to report this debt to your personal credit report with a national credit bureau.

We will be reporting the account balance to one or more of the national credit bureaus on or about 12-06-10. The only way this process can be stopped is by your action. You need to pay this account in full immediately.

Our client informs us that the "Equipment Charges" line above includes the cost of the cable box(s), and/or modem(s) presently in your possession. They can be returned for a full credit to any Cablevision office. Call and ask how.

Banks, mortgage brokers, credit card companies, auto dealers and all major retailers all look to your personal credit profile to make decisions whether to lend you money. You are jeopardizing your basic right to credit.

Your future credit is in your hands now! Don't take this lightly. Don't make a mistake that you will have to live with in the future. Pay this debt today!

For convenient payment options, visit us on the internet at [www.sunrisecreditservices.com](http://www.sunrisecreditservices.com) or use our automated phone payment system at 866-565-7542, 24 hours a day, 7 days a week.

The toll-free number for your account representative is 800-269-9488.

Yours truly,  
David P. Duryea  
Executive Vice President, Collections  
Sunrise Credit Services, Inc.

NEW YORK CITY DEPT OF CONSUMER AFFAIRS LICENSE # 0902582.

**THIS IS AN ATTEMPT TO COLLECT A DEBT.  
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.  
THIS COMMUNICATION IS FROM A DEBT COLLECTOR.**

**PLEASE REFER TO REVERSE SIDE FOR IMPORTANT INFORMATION**

EXPC [down arrow]

PLEASE DETACH AND RETURN BOTTOM PORTION WITH PAYMENT. KEEP TOP PORTION FOR YOUR RECORDS.

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